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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/450,912	11/29/1999	BRIAN JOSEPH MCNAMARA	17481	8320

7590 02/13/2002

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EXAMINER

SMITH, SHEILA B

ART UNIT

PAPER NUMBER

2685

DATE MAILED: 02/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/450,912

Applicant(s)

MCNAMARA, BRIAN

Examiner

Sheila B. Smith

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (U. S. Patent Number 4,905,306) in view of Liu et al. (U. S. Patent Number 5,808,879).

Regarding claims 1,2,3,5,7, Anderson discloses essentially all the claimed invention as set forth in the instant application, further Anderson discloses a filter switching arrangement for a tuner, in addition Anderson discloses a first and second impedance element between an RF input port and an RF output port, receive a first RF signal and provide the signal to the output port, band control voltage source, conducting gates as disclosed in column 1 lines 59-67.

However, Anderson fails to specifically disclose the use of a switching transistor.

In the same field of endeavor Liu et al. discloses half bridge zero voltage switched PWN flyback DC/DC converter. In addition Liu et al. discloses a switching transistor as disclosed in column 6 lines 52-58.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Anderson with a switching transistor as taught by Liu et al. for the purpose of having a cheaper and more flexible circuit.

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Regarding claims 4, 6, 8 , Anderson. further discloses a resistance (919) connected across the conducting gates of the transistor (901) and the drain and source nodes of the transistor (919) being in series as disclosed in column 3 lines 1-5.

Regarding claim 9, Anderson. discloses everything claimed, as applied above (see claims 1) however, Anderson. disclose a first and second impedance element between an RF input port and an RF output port, receive a first RF signal and provide the signal to the output port as disclosed in column 6 lines 52-58.

Regarding claim 10, 11, 12 , Anderson. further discloses a resistance (919) connected across the conducting gates of the switching transistor (901) and the drain and source nodes of the switching transistor (919) being in series as disclosed in column 3 lines 1-5.

Regarding claim 13, 14, 15 , Anderson. further discloses a switching transistor is a FET and a amplifier as disclosed in column 3 lines 25-26.

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Double Patenting

3. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

4. Claims 1-12 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1-12 of copending Application No. 09/325,478. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

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Citation of Pertinent Art

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Putzer (U. S. Patent Number 3,624,514) discloses tuning circuit having common tuning element for three frequency ranges and self-oscillating mixer using same;

Matsumoto et al. (U. S. Patent Number 4,326,295) discloses television tuner circuit;

Putzer (U. S. Patent Number 3,624,514) discloses input circuit of VHF television set tuner;

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila B. Smith whose telephone number is (703)305-0104. The examiner can normally be reached on Monday-Thursday 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on 703-308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-6306 for regular communications and (703)308-6296 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.

S. Smith
February 10, 2002


EDWARD F. URBAN
PRIMARY EXAMINER